

PU3126USW

#7
3-19-03
J. D. Horne

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application: Glover et al.

Serial No.: 10/007,272

Examiner: E. Crane

Filing Date: 29 October 2001

Art Unit: 1623

For: NOVEL CRYSTALLINE FORMS OF AN ANTIVIRAL
BENZIMIDAZOLE COMPOUNDAssistant Commissioner for Patents
Washington D.C. 20231RESPONSE

Sir:

Responsive to the first Office Action mailed 16 December 2002, please reconsider the instant application in view of the following remarks.

Remarks

Currently Claims 11, 14 and 16-21 are pending.

Section 112, Second Paragraph Rejection Overcome

Claims 11, 14, 16-17 and 19-20 currently stand rejected under 35 U.S.C. §112, second paragraph, the Office Action stating that the claims are indefinite for use of the term "substantially". Applicants respectfully traverse this rejection.

Applicants respectfully direct the Examiner's attention to MPEP 2173.05(b) subpart D which indicates that the term "substantially" is not *per se* indefinite, and recites two instances where the use of the term "substantially" was found to be sufficiently definite to meet the requirements of section 112.

The acceptability of terms of degree, such as "substantially," depends on whether one skilled in the art would understand what is claimed, in light of the specification. In the instant case, the term "substantially" is employed in the context of X-ray powder